

## **REMARKS**

### **Claim Rejections**

Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-5 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodwin et al. (US-4,949,972) in view of Bateman (US-5,618,044). Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodwin et al. in view of Bateman, and further in view of Hodge (US-5,516,113). Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodwin et al. in view of Bateman, and further in view of Beall et al. (US-4,974,857).

### **Drawings**

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

### **New Claims**

By this Amendment, Applicant has canceled claims 1-8 and has added new claims 9-16 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims recite an electronic target unit for detecting a bullet comprising: a housing (1) having: a receiving area (11) with an opening (13) therein; a first bullet passageway (15); a notch (41) located below the first bullet passageway; a scoring circuit (3) having an acoustic circuit (33) for making audible sounds; and a display (31); a sensitive target (2) positioned within the housing and having a sensing circuit (21), the sensing circuit detecting electronic signals generated when the sensitive target is struck by the bullet and electrically connected to the display; a target paper (12) positioned over the opening of the receiving area; and a recovery bin (4) with a drawer (42) slidably inserted into the notch in the housing.

Other embodiments of the present invention include: the housing includes a framing cover (14) pivotally connected to the housing and movable between opened and closed positions, such that in the open position the target paper is removable and in the closed position the target paper is secured in the housing; the receiving area includes a plurality of brackets (5) located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; the target includes a supporting frame (19); the receiving area is recessed to form a lower step (18); the sensitive target is made of a vibration absorbing material and is formed by a printing method; the sensitive target is made of a vibration absorbing material and includes a plurality of enclosing walls (22), each of the plurality of enclosing walls having a hole (23) located at a lowermost portion and a second bullet passageway (24) communicating with the hole and the first bullet passageway; and the sensing circuit includes photosensitive resistance (25) located in the second bullet passageway of each of the plurality of enclosing walls.

The primary reference to Goodwin et al. discloses a target scoring and display system including a target support means (21) with a polygonal open target area (22), a plurality of light emitting means (26, 27), a plurality of light beams (32, 34), a plurality of signal generating means (36, 38), and a paper target sheet (24) located on pin means (74, 76) of the target support means.

Goodwin et al. do not teach a scoring circuit having an acoustic circuit for making audible sounds; the sensing circuit detecting electronic signals generated when the sensitive target is struck by the bullet; a recovery bin with a drawer slidably inserted into the notch in the housing; the housing includes a framing cover pivotally connected to the housing and movable between opened and closed positions; the receiving area includes a plurality of brackets located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; the target includes a supporting frame; the receiving area is recessed to form a lower step; the sensitive target is made of a vibration absorbing material and is formed by a printing method; the sensitive target is made of a vibration absorbing material and includes a plurality

of enclosing walls, each of the plurality of enclosing walls having a hole located at a lowermost portion and a second bullet passageway communicating with the hole and the first bullet passageway; and nor do Goodwin et al. disclose the sensing circuit includes photosensitive resistance located in the second bullet passageway of each of the plurality of enclosing walls.

The secondary reference to Bateman discloses a bullet trap and containment cavity including a back plate (3), side plates (14), a top plate (9), bottom plate (4), side detector (15), top deflector (10), bottom deflector (16), and front curtain (13). A collection tray (7) is located under a front edge of the bottom plate.

Bateman does not teach a scoring circuit having an acoustic circuit for making audible sounds; the sensing circuit detecting electronic signals generated when the sensitive target is struck by the bullet; a display; a recovery bin with a drawer slidably inserted into the notch in the housing; the housing includes a framing cover pivotally connected to the housing and movable between opened and closed positions; the receiving area includes a plurality of brackets located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; the target includes a supporting frame; the receiving area is recessed to form a lower step; the sensitive target is made of a vibration absorbing material and is formed by a printing method; the sensitive target is made of a vibration absorbing material and includes a plurality of enclosing walls, each of the plurality of enclosing walls having a hole located at a lowermost portion and a second bullet passageway communicating with the hole and the first bullet passageway; and nor does Bateman disclose the sensing circuit includes photosensitive resistance located in the second bullet passageway of each of the plurality of enclosing walls.

The secondary reference to Hodge discloses a resisted matrix targeting system including a continuous paper target (12) with pin holes (14, 18), a matrix grid (26, 28) with resistors (RS1-RS14), a sensing grid cover (100), and a grid surface (102).

Hodge does not teach a scoring circuit having an acoustic circuit for making audible sounds; a recovery bin with a drawer slidably inserted into the notch in the housing; the housing includes a framing cover pivotally connected to the housing and movable between opened and closed positions; the receiving area includes a plurality of brackets located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; the target includes a supporting frame; the receiving area is recessed to form a lower step; the sensitive target includes a plurality of enclosing walls, each of the plurality of enclosing walls having a hole located at a lowermost portion and a second bullet passageway communicating with the hole and the first bullet passageway; and nor does Hodge disclose the sensing circuit includes photosensitive resistance located in the second bullet passageway of each of the plurality of enclosing walls.

The secondary reference to Beall discloses an electronic dart game including an electronic dart board (11) mounted in an upright cabinet (12). The dart board includes a plurality of target segments (14) slidably mounted in a spider framework (15), a control panel (16), and a speaker (32).

Beall et al. do not teach a recovery bin with a drawer slidably inserted into the notch in the housing; the housing includes a framing cover pivotally connected to the housing and movable between opened and closed positions; the receiving area includes a plurality of brackets located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; the target includes a supporting frame; the sensitive target is made of a vibration absorbing material and includes a plurality of enclosing walls, each of the plurality of enclosing walls having a hole located at a lowermost portion and a second bullet passageway communicating with the hole and the first bullet passageway; and nor do Beall et al. disclose the sensing circuit includes photosensitive resistance located in the second bullet passageway of each of the plurality of enclosing walls.

Even if the teachings of Goodwin et al., Bateman, Hodge, and Beall et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: 1) a recovery bin with a drawer slidably inserted into the notch in the housing; 2) the housing includes a framing cover pivotally connected to the housing and movable between opened and closed positions; 3) the receiving area includes a plurality of brackets located on a periphery of the opening, the brackets have an L shaped cross section, the target is positioned in the housing by slidably inserting the target between the brackets; 4) the target includes a supporting frame; 5) the sensitive target includes a plurality of enclosing walls, each of the plurality of enclosing walls having a hole located at a lowermost portion and a second bullet passageway communicating with the hole and the first bullet passageway; and nor does the combination suggest 6) the sensing circuit includes photosensitive resistance located in the second bullet passageway of each of the plurality of enclosing walls.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Goodwin et al., Bateman, Hodge, or Beall et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Goodwin et al., Bateman, Hodge, nor Beall et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: February 2, 2004

By:

Bruce H. Troxell by BRH  
Bruce H. Troxell  
Reg. No. 26,592

TROXELL LAW OFFICE PLLC  
5205 Leesburg Pike, Suite 1404  
Falls Church, Virginia 22041  
Telephone: 703 575-2711  
Telefax: 703 575-2707